

Ministry of Foreign Trade
Egyptian Commercial Service
Americas Department

Date: March 26th, 2003

Comments By Egyptian Government
on the
Prior Notice of imported Food Under The Public Health Security
and Bioterrorism Preparedness and Response Act of 2002

Part .1: Comments to specific Rulings:

- Rule III. A. 1 : What is FDA code, is it derived from HS code, or are they identical, and if not, would this rule entail more burden on foreign exporters. (page 10)
- Rule III. A. 1: What is meant by information related to US customs entry process. (page 10)
- Rule III. A . 2: The notice must be submitted by noon of the calendar day before the day of arrival.. The definition of the calendar day (Rule III A . 2 . A) is every day shown on the calendar .. What would be the case if the imported food arrives OR will arrive to the American port in a public holidays OR a weekend? (page 12 . 2.b.)
- Rule III. B. 1. : When shall food carried by individual travelers qualify or disqualify for exemption from pre-notice subpart. (pages 11 J 12)
- Rule III. B. 2.e : There's an ambiguity about how is the FDA definition of originating countries is different from US customs definition.
- Rule III. C .3. : Relying solely on a web-based electronic pre- notice submission system entails serious repercussions on submitters in case of system failures, web-site down or high net traffic, specially with the perishable nature of food products and strict submission deadlines set out by FDA (page 29).
We recommend there should be a parallel system to be used in above cases where It won't be possible for web electronic submissions.
- Rule III. d. : FDA is requesting comment on whether the required notes should include the countries of intermediate destination .. In the case of Egypt - and in many cases – the importers and the exporters can't guarantee the countries of intermediate destination, and they may not know what other ports the ship will enter or pass in its way from an Egyptian port - or originated port - to a U.S.A port.

- Rule III. d. : The FDA believes that prior notice is required if the article is being imported for use as food .. It is recommended that the FDA should specify from the beginning the non-food Articles that can be used as food.
- Rule III. e.: Originating country OR the country from which the article of food originates needs more clarification, especially for the processed *food*.
- Rule 3 : *The* FDA proposed that the consequences of failing to submit adequate prior notices, the food will be held at the port of entry ... etc. and the purchaser, owner, importer or consignee is responsible for the expenses. These expenses should be covered by the importer or purchaser because he is the person required ..” by this act “., to submit the prior notice. (C.1 page 21).
- Rule 6 : FDA is proposing that the prior notice must be amended if all information required are not exist at the time of notification, the submitter must indicate the intention to amend the information ... and the FDA is proposing that the prior notice may be amended only once ..We believe that the FDA asks for every detailed information about the imported food, therefore these information may need to be amended more than once to comply with these specific requirements.

Part 2 : General Comments:

- How would FDA react to inevitable or extenuating circumstances such as delay in arrival of food shipment by sea to entry port?
- Page (8) Docket No. 02N-O276 : The FDA proposes that the facility which conducts the de minimis activities must be registered, we recommend that the facility that conduct the de minimis activities such as affixing label to a package can exempt from registration as long as there are no new operations or other changes in the status of the imported food.
- Page (24) Docket No. 02N-O276 : The FDA is planning to have both its electronic and paper registration systems operational at least 2 months before the statutory deadline of December 12, 2003 .. We believe that 3-4 months would be more convenient for the registration before the deadline of December 12, 2003.
- . In page (55) the FDA stated that "the US customs will not certify the entry until 5 days before the ship is expected to dock at a US port. FDA is notified of the shipment then, r' In many cases, it's difficult to fix the exact date of arrival to the port, especially from a very far destination (like Egypt)1 so we may ask for more flexibility for sea shipments.
- In page (62-63)... it's proposed that If The US importer or US purchaser or their US agent is responsible for submitting the prior notice and the information required in prior notice should be fixed after the order is placed and will not depend on the location of the source of

the food product .. " 1 What will be the situation if the exporter shipped the goods and the importer didn't notify the FDA in the proper time??

Additional Comments

On the

Prior Notice of imported Food Under the public Health Security ;
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- 1- Nowadays trading Companies play important role in the international trade. These companies obtain the goods they export from different Producing companies, some of these". Producing companies are Dot involved directly in export : business. Therefore these Producing companies will not register themselves with the FDA. How the FDA will deal with imports exported by trading companies obtained from companies not registered with FDA?
- .1.- Rule ill .A. : What is FDA code, is it derived from HS code, are "" they identical . :
- 3- Rule m. B. 2.e : There is an ambiguity about the FDA definition of Originating Countries, is it different from US Customs definition "
- 4 - How would FDA react to inevitable or extenuating circumstances :4 such as delay in arrival of food shipment by sea to entry port ?